

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

ROOSEVELT PARKER

PLAINTIFF

V.

CIVIL ACTION NO.: 2:22-CV-00045-HSO-BWR

**STATE FARM FIRE AND CASUALTY
COMPANY**

DEFENDANT

**STATE FARM FIRE AND CASUALTY COMPANY’S
MOTION TO STRIKE PLAINTIFF’S EXPERT SCOTT, BERBERICH, PURSUANT TO
RULE 702 AND *DAUBERT***

COMES NOW the Defendant, STATE FARM FIRE AND CASUALTY COMPANY (hereinafter “State Farm”), by and through its counsel of record and files this its Motion to Strike Plaintiff’s Expert, Scott Berberich, pursuant to Rule 702 and *Daubert*, and would show unto the Court as follows, to-wit:

I.

That State Farm respectfully moves the Court to strike Plaintiff’s expert, Scott Berberich, and exclude his testimony and opinions at trial. Plaintiff retained Mr. Berberich to provide expert testimony on Plaintiff’s claim for alleged damages to his property resulting from a wind event, designating him in the field of loss consulting for the purpose of valuation of damages, scope of damages, and causation of the alleged loss. However, Mr. Bererich’s opinions are based on unreliable information, rendering his entire methodology and resulting opinions unreliable. Furthermore, Mr. Berberich, according to his CV, is not qualified by education or training to assess causation. Under these circumstances, the Court should strike Mr. Berberich as an expert and exclude his opinions and testimony at trial pursuant to Federal Rule of Evidence

702 and *Daubert*.

II.

That State Farm submits herewith an accompanying Memorandum, incorporated herein by reference.

III.

That State Farm attaches the following exhibits to this Motion and incorporates them by reference:

- Exhibit A: State Farm Summary of Coverage A Estimate;
- Exhibit B: Letter from Lindsey Topp to Tito Garcia (Parker ECS 742-743)
- Exhibit C: ATA Estimate Front Page (Parker ECS 695)
- Exhibit D: Plaintiff's Initial Disclosures Dated 5.10.22;
- Exhibit E: Plaintiff's Answer to State Farm's Interrogatories Dated 8.3.22;
- Exhibit F: Plaintiff's Rule 26(a) Expert Disclosures;
- Exhibit G: Berberich Report;
- Exhibit H: Berberich CV;
- Exhibit I: Excerpt from the Deposition of Scott Berberich at pp. 34-35;
- Exhibit J: Excerpt from the Deposition of Scott Berberich at pp. 55-56;
- Exhibit K: Excerpt from the Deposition of Scott Berberich at pp. 56-57;
- Exhibit L: Excerpt from the Deposition of Scott Berberich at p. 78;
- Exhibit M: Excerpt from Deposition of Scott Berberich at p.80;
- Exhibit N: Excerpt from Deposition of Scott Berberich at pp.89-92, 105, 140-142, 156, 158;
- Exhibit O: Excerpt from the Deposition of Tommy Tompkins at p. 20;
- Exhibit P: Excerpt from the Deposition of Tommy Tompkins at p. 35-37;

Exhibit Q: Excerpt from the Deposition of Tommy Tompkins at pp. 46-51;

Exhibit R: Excerpt from the Deposition of Tommy Tompkins at pp. 52-54;

Exhibit S: Affidavit of Tommy Tompkins;

Exhibit T: Excerpt from the Deposition of Tommy Tompkins at pp. 73-74;

Exhibit U: Excerpt from the Deposition of Scott Berberich at 51-52;

Exhibit V: State Farm Policy Issued to Parker;

Exhibit W: Excerpt from the Deposition of Scott Berberich at 89-90;

Exhibit X: Excerpt from the Deposition of Scott Berberich at 92.

WHEREFORE, PREMISES CONSIDERED, the Defendant, STATE FARM FIRE AND CASUALTY COMPANY, respectfully moves the Court should strike Scott Berberich as an expert and exclude his testimony and opinions at trial.

Dated: February 17, 2023.

Respectfully submitted,

BRYAN, NELSON, SCHROEDER,
CASTIGLIOLA & BANAHAN, PLLC
Attorneys for Defendant,

STATE FARM FIRE AND CASUALTY
COMPANY

BY: s/H. Benjamin Mullen
H. BENJAMIN MULLEN (MSB 9077)
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CERTIFICATE OF SERVICE

I, **H. BENJAMIN MULLEN**, one of the attorneys for the Defendant, **STATE FARM FIRE AND CASUALTY COMPANY**, do hereby certify that I have this date electronically filed the foregoing Motion to Strike Plaintiff's Expert, Scott Berberich, pursuant to Rule 702 and *Daubert* with the Clerk of Court using the ECF system which sent notification of such filing to counsel of record.

Dated: February 17, 2023.

s/ H. Benjamin Mullen
H. Benjamin Mullen (9077)

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